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OFFICE OF PETITIONS

In re Application :
Zhang, et al. :
Application No. 10/629,308 : DECISION ON APPLICATION
Filed: July 29, 2003 : FOR PATENT TERM ADJUSTMENT
Docket No. J&J-100US :

This is a decision on the petition under 37 CFR 1.705(b), filed December 22, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eleven (11) days to zero (0) days.

The application for patent term adjustment is **GRANTED**.

On September 24, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was eleven (11) days.

The Office initially determined a patent term adjustment of eleven (11) days based on an adjustment for PTO delay of three hundred two (302) days pursuant to 37 CFR 1.703(a)(1), and one hundred eighty-six (186) and nineteen (19) days pursuant to CFR 1.703(a)(2), reduced by fifty-six (56), ninety-six (96), eighty-seven (87), and ninety-one (91) days of applicant delay pursuant to 37 CFR 1.704(b), and seventy-four (74), seventy-five (75), twelve (12) and five (5) days pursuant to 37 CFR 1.704(c)(8).

Applicants point out that they should have been assessed additional days of delay under 37 CFR 1.704(c)(8). Applicants filed a Supplemental IDS on May 14, 2007, after an amendment had been previously filed on January 3, 2007. Accordingly, pursuant to 37 CFR 1.704(c)(8), one hundred thirty-one (131) days of Applicant delay should have been assessed for this filing.

Applicants also point out that they should have been assessed additional delay of seventy-one (71) days pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on April 16, 2010. In reply, Applicants filed an RCE on July 15, 2010, to which the Office responded by mailing another Notice of Allowance on September 24, 2010. Pursuant to 37 CFR 1.704(c)(10), the applicants should be assessed delay "beginning on the date the amendment under §1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper". Accordingly, Applicant delay of seventy-two (72) days should have been assessed, not seventy-one (71) as noted by Applicants.

Finally, Applicants argue that they should not have been assessed Applicant delay of five (5) days pursuant to 37 CFR 1.704(c)(8), for filing a Terminal Disclaimer on March 22, 2010, after an Amendment had allegedly been filed on March 17, 2010. Applicants assert that the Amendment was in fact filed on March 22, 2010, not March 17, 2010, as noted in PAIR. A review of the Image File Wrapper confirms that Applicants are correct. Accordingly, Applicants should not have been assessed five (5) days of delay with respect to this filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (507 (302+186+19) days of PTO delay, reduced by 694 (56+96+131+87+74+91+75+12+72) days of applicant delay).

Receipt of the \$200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Anthony Knight
Director
Office of Petitions

Enc: copy of PAIR screen



Patent Term Adjustments



PTA/PTC Information Patent Term Adjustment Patent Term Extension

Application Number*: 10629308 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10629308

| | |
|------------------------------------|--|
| Application Filing Date 07/29/2003 | Overlapping Days Between (A and B) or (A and C): 0 |
| Issue Date of Patent | Non-Overlapping USPTO Delays: 507 |
| A Delays 507 | PTO Manual Adjustment - 198 |
| B Delays 0 | Applicant Delay (APPL) 496 |
| C Delays 0 | Total PTA (days) 0 |

* - Sorted Column

File Contents History

| Action Number | Action Recorded Date | Action Due Date | Action Code | Action Description | Duration PTO | Duration APPL | Parent Action Number |
|---------------|----------------------|-----------------|-------------|---|--------------|---------------|----------------------|
| 170 | 03/04/2011 | | P028 | Adjustment of PTA Calculation by PTO | | 128 | 0 |
| 154 | 09/24/2010 | | MN/- | Mail Notice of Allowance | | | 0 |
| 153 | 09/23/2010 | | IREV | Issue Revision Completed | | | 0 |
| 152 | 09/23/2010 | | N/- | Notice of Allowance Data Verification Completed | | | 0 |
| 151 | 09/15/2010 | | ACRE | Allowed Case Returned to the Examiner for Clerical Processing | | | 0 |
| 150 | 09/13/2010 | | DVER | Document Verification | | | 0 |
| 149 | 09/13/2010 | | CNTA | Allowability Notice | | | 0 |
| 147 | 08/18/2010 | | DOCK | Case Docketed to Examiner in GAU | | | 0 |
| 143 | 07/22/2010 | | ABN9 | Disposal for a RCE / CPA / R129 | | | 0 |
| 148 | 07/15/2010 | | IDSC | Information Disclosure Statement considered | | | 0 |
| 146 | 07/15/2010 | | M844 | Information Disclosure Statement (IDS) Filed | | | 0 |
| 145 | 07/15/2010 | | RCAP | Reference capture on IDS | | | 0 |
| 144 | 07/15/2010 | | RCEX | Request for Continued Examination (RCE) | | | 0 |
| 142 | 07/15/2010 | | WIDS | Information Disclosure Statement (IDS) Filed | | | 0 |
| 141 | 07/15/2010 | | BRCE | Workflow - Request for RCE - Begin | | | 0 |
| 140 | 06/24/2010 | | FIDC | Finished Initial Data Capture | | | 0 |
| 139 | 05/02/2010 | | P574 | Paralegal TD Accepted | | | 0 |
| 138 | 04/20/2010 | | EIDC | Export to Initial Data Capture | | | 0 |
| 137 | 04/16/2010 | | MN/- | Mail Notice of Allowance | | | 0 |
| 136 | 04/15/2010 | | IREV | Issue Revision Completed | | | 0 |
| 135 | 04/15/2010 | | DVER | Document Verification | | | 0 |
| 134 | 04/15/2010 | | N/- | Notice of Allowance Data Verification Completed | | | 0 |
| 133 | 04/15/2010 | | DOCK | Case Docketed to Examiner in GAU | | | 0 |
| 132 | 04/12/2010 | | CNTA | Allowability Notice | | | 0 |
| 128 | 03/23/2010 | | FWDX | Date Forwarded to Examiner | | | 0 |
| 130 | 03/22/2010 | 03/17/2010 | DIST | Terminal Disclaimer Filed | | 5 | 127 |
| 127 | 03/17/2010 | | A-NE | Amendment after Final Rejection | | | 0 |
| 131 | 03/04/2010 | | IDSC | Information Disclosure Statement considered | | | 0 |
| 129 | 03/04/2010 | | M844 | Information Disclosure Statement (IDS) Filed | | | 0 |
| 126 | 03/04/2010 | | WIDS | Information Disclosure Statement (IDS) Filed | | | 0 |
| 125 | 01/21/2010 | | MCTFR | Mail Final Rejection (PTOL - 326) | | | 0 |
| 124 | 01/19/2010 | | CTFR | Final Rejection | | | 0 |
| 121 | 11/14/2009 | | FWDX | Date Forwarded to Examiner | | | 0 |
| 123 | 10/19/2009 | | IDSC | Information Disclosure Statement considered | | | 0 |
| 122 | 10/19/2009 | 10/07/2009 | M844 | Information Disclosure Statement (IDS) Filed | | 12 | 120 |
| 119 | 10/19/2009 | | WIDS | Information Disclosure Statement (IDS) Filed | | | 0 |
| 120 | 10/07/2009 | | A- | Response after Non-Final Action | | | 0 |
| 118 | 07/07/2009 | 06/18/2009 | MCTNF | Mail Non-Final Rejection | | 12 | 109 |
| 117 | 07/06/2009 | | CTNF | Non-Final Rejection | | | 0 |
| 116 | 05/08/2009 | | FWDX | Date Forwarded to Examiner | | | 0 |
| 115 | 05/04/2009 | 02/18/2009 | SA- | Supplemental Response | | 25 | 109 |
| 112 | 03/04/2009 | | FWDX | Date Forwarded to Examiner | | | 0 |
| 110 | 03/04/2009 | | FWDX | Date Forwarded to Examiner | | | 0 |
| 108 | 03/04/2009 | | ABN9 | Disposal for a RCE / CPA / R129 | | | 0 |
| 111 | 02/18/2009 | | AMPR | RCE: AF Processed | | | 0 |
| 109 | 02/18/2009 | 11/19/2008 | RCEX | Request for Continued Examination (RCE) | | 91 | 97 |
| 107 | 02/18/2009 | | XT/G | Request for Extension of Time - Granted | | | 0 |
| 106 | 02/18/2009 | | BRCE | Workflow - Request for RCE - Begin | | | 0 |
| 105 | 02/02/2009 | | MCTAV | Mail Advisory Action (PTOL - 303) | | | 0 |
| 104 | 01/30/2009 | | CTAV | Advisory Action (PTOL-303) | | | 0 |
| 103 | 12/17/2008 | | MCTAV | Mail Advisory Action (PTOL - 303) | | | 0 |
| 102 | 12/16/2008 | | CTAV | Advisory Action (PTOL-303) | | | 0 |
| 101 | 12/05/2008 | | FWDX | Date Forwarded to Examiner | | | 0 |
| 100 | 11/19/2008 | | A-NE | Amendment after Final Rejection | | | 0 |
| 99 | 11/14/2008 | | CADB | Correspondence Address Change | | | 0 |
| 98 | 10/17/2008 | | CADB | Correspondence Address Change | | | 0 |
| 97 | 08/19/2008 | | MCTFR | Mail Final Rejection (PTOL - 326) | | | 0 |
| 96 | 08/18/2008 | | CTFR | Final Rejection | | | 0 |
| 114 | 07/15/2008 | | RCAP | Reference capture on IDS | | | 0 |
| 113 | 07/15/2008 | 05/02/2008 | M844 | Information Disclosure Statement (IDS) Filed | | 24 | 89 |
| 93 | 07/15/2008 | | IDSC | Information Disclosure Statement considered | | | 0 |
| 92 | 07/15/2008 | | WIDS | Information Disclosure Statement (IDS) Filed | | | 0 |
| 91 | 06/10/2008 | | DOCK | Case Docketed to Examiner in GAU | | | 0 |
| 90 | 06/03/2008 | | FWDX | Date Forwarded to Examiner | | | 0 |
| 89 | 05/02/2008 | 03/05/2008 | A- | Response after Non-Final Action | | 02 | 80 |
| 88 | 05/02/2008 | | XT/G | Request for Extension of Time - Granted | | | 0 |
| 94 | 01/15/2008 | | IDSC | Information Disclosure Statement considered | | | 0 |
| 87 | 01/15/2008 | | RCAP | Reference capture on IDS | | | 0 |
| 86 | 01/15/2008 | | M844 | Information Disclosure Statement (IDS) Filed | | | 0 |
| 84 | 01/15/2008 | | WIDS | Information Disclosure Statement (IDS) Filed | | | 0 |
| 95 | 11/05/2007 | | IDSC | Information Disclosure Statement considered | | | 0 |
| 83 | 11/05/2007 | | RCAP | Reference capture on IDS | | | 0 |
| 82 | 11/05/2007 | | M844 | Information Disclosure Statement (IDS) Filed | | | 0 |
| 81 | 11/05/2007 | | WIDS | Information Disclosure Statement (IDS) Filed | | | 0 |
| 80 | 11/05/2007 | 05/03/2007 | MCTNF | Mail Non-Final Rejection | | 106 | 56 |
| 79 | 10/29/2007 | | CTNF | Non-Final Rejection | | | 0 |
| 73 | 09/10/2007 | | EOSP | to Close the A/R Record and Reset the Status for Expired Suspensions. | | | 0 |
| 74 | 06/12/2007 | | FWDX | Date Forwarded to Examiner | | | 0 |
| 78 | 05/14/2007 | | IDSC | Information Disclosure Statement considered | | | 0 |
| 67 | 05/14/2007 | | RCAP | Reference capture on IDS | | | 0 |
| 66 | 05/14/2007 | | M844 | Information Disclosure Statement (IDS) Filed | | | 0 |
| 65 | 05/14/2007 | | WIDS | Information Disclosure Statement (IDS) Filed | | | 0 |
| 75 | 01/30/2007 | | IDSC | Information Disclosure Statement considered | | | 0 |
| 64 | 01/30/2007 | | RCAP | Reference capture on IDS | | | 0 |
| 63.7 | 01/30/2007 | | M844 | Information Disclosure Statement (IDS) Filed | | | 0 |
| 63 | 01/30/2007 | | WIDS | Information Disclosure Statement (IDS) Filed | | | 0 |
| 62 | 01/11/2007 | | MAISP | Mail Letter Suspending Prosecution at Applicant's Request | | | 0 |
| 61 | 01/10/2007 | | AISP | Suspension Letter- Applicant Initiated | | | 0 |

| | | | | | |
|------|------------|------------|---|-----|----|
| 59 | 01/10/2007 | FWDX | Date Forwarded to Examiner | | 0 |
| 57 | 01/10/2007 | FWDX | Date Forwarded to Examiner | | 0 |
| 55 | 01/10/2007 | ABH9 | Disposal for RCE / CPA / RCE | | 0 |
| 60 | 01/03/2007 | M856 | Letter Requesting Suspension of Prosecution | | 0 |
| 50 | 01/03/2007 | AKSD | Amendment Submitted/Entered with Filing of CPA/RCE | | 0 |
| 56 | 01/03/2007 | 09/29/2006 | Request for Continued Examination (RCE) | 56 | 47 |
| 54 | 01/03/2007 | XT/G | Request for Extension of Time Granted | | 0 |
| 53 | 01/03/2007 | ORCE | Workflow - Request for RCE - Begin | | 0 |
| 52 | 12/22/2006 | MCTAV | Mail Advisory Action (PTOL 303) | | 0 |
| 51 | 12/21/2006 | CTAV | Advisory Action (PTOL 303) | | 0 |
| 50 | 08/29/2006 | FWDX | Date Forwarded to Examiner | | 0 |
| 49 | 08/21/2006 | A.NE | Amendment after Final Rejection | | 0 |
| 48 | 06/29/2006 | HW/AC | Mail Notice of Withdrawn Action | | 0 |
| 47 | 06/29/2006 | MCTFR | Mail Final Rejection (PTOL - 326) | | 0 |
| 46 | 06/27/2006 | CTFR | Final Rejection | | 0 |
| 45 | 06/27/2006 | W/AC | Withdrawing/Vacating Office Action Letter | | 0 |
| 44 | 06/15/2006 | MCTNF | Mail Non-Final Rejection | | 0 |
| 43 | 06/12/2006 | CTNF | Non-Final Rejection | | 0 |
| 42 | 04/04/2006 | FWDX | Date Forwarded to Examiner | | 0 |
| 41 | 03/29/2006 | ELC | Response to Election / Restriction Filed | | 0 |
| 40 | 03/10/2006 | PA | Change in Power of Attorney (May Include Associate POA) | | 0 |
| 39 | 03/10/2006 | C.AD | Correspondence Address Change | | 0 |
| 38 | 02/27/2006 | MCTRS | Mail Restriction Requirement | | 0 |
| 37 | 02/21/2006 | CTRS | Restriction/Election Requirement | | 0 |
| 36 | 01/20/2006 | FWDX | Date Forwarded to Examiner | | 0 |
| 35 | 12/23/2005 | IDSC | Information Disclosure Statement considered | | 0 |
| 34.7 | 12/23/2005 | 12/23/2005 | Reference capture on IDS | | 0 |
| 34 | 12/23/2005 | M844 | Information Disclosure Statement (IDS) Filed | | 32 |
| 33 | 12/23/2005 | WIDS | Information Disclosure Statement (IDS) Filed | | 0 |
| 32 | 12/23/2005 | 10/28/2005 | Response after Non-Final Action | 55 | 30 |
| 31 | 12/23/2005 | XT/G | Request for Extension of Time Granted | | 0 |
| 30 | 07/28/2005 | 09/29/2004 | Mail Non-Final Rejection | 302 | -1 |
| 29 | 07/25/2005 | CTNF | Non-Final Rejection | | 0 |
| 28 | 07/02/2005 | DOCK | Case Docketed to Examiner in GAU | | 0 |
| 26 | 03/10/2005 | PA | Change in Power of Attorney (May include Associate POA) | | 0 |
| 27 | 03/09/2005 | C.AD | Correspondence Address Change | | 0 |
| 25 | 01/27/2005 | TSSCOMP | IFW/TSS Processing by Tech Center Complete | | 0 |
| 24 | 01/27/2005 | DOCK | Case Docketed to Examiner in GAU | | 0 |
| 20 | 10/25/2004 | WROIPE | Application Return from OIPE | | 0 |
| 19 | 10/25/2004 | ROIPE | Application Return TO OIPE | | 0 |
| 18 | 10/25/2004 | WROIPE | Application Return from OIPE | | 0 |
| 17 | 10/25/2004 | COMP | Application Is Now Complete | | 0 |
| 16 | 10/25/2004 | W/OA | Pre-Exam Office Action Withdrawn | | 0 |
| 15 | 10/25/2004 | ROIPE | Application Return TO OIPE | | 0 |
| 14 | 10/25/2004 | WROIPE | Application Return from OIPE | | 0 |
| 13 | 10/25/2004 | COMP | Application Is Now Complete | | 0 |
| 23 | 05/13/2004 | RCAP | Reference capture on IDS | | 0 |
| 22.7 | 05/13/2004 | M844 | Information Disclosure Statement (IDS) Filed | | 0 |
| 22 | 05/13/2004 | WIDS | Information Disclosure Statement (IDS) Filed | | 0 |
| 11 | 11/10/2003 | W/OA | Pre-Exam Office Action Withdrawn | | 0 |
| 9 | 11/10/2003 | INCD | Notice Mailed Application Incomplete Filing Date Assigned | | 0 |
| 8 | 11/07/2003 | W/OA | Pre-Exam Office Action Withdrawn | | 0 |
| 7 | 11/06/2003 | ROIPE | Application Return TO OIPE | | 0 |
| 5 | 11/06/2003 | COMP | Application Is Now Complete | | 0 |
| 6 | 11/05/2003 | OIPE | Application Dispatched from OIPE | | 0 |
| 4 | 10/14/2003 | CLSS | CASE CLASSIFIED BY OIPE | | 0 |
| 3 | 10/14/2003 | CL94 | Cleared by OIPE CSRE | | 0 |
| 2 | 09/08/2003 | SCAN | IFW Scan & PACR Auto Security Review | | 0 |
| 21 | 08/15/2003 | ALPE | Preliminary Amendment | | 0 |
| 12 | 07/29/2003 | ADDLFEE | Additional Application Filing Fees | | 0 |
| 1 | 07/29/2003 | TEOX | Initial Exam Team on | | 0 |

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